
HOUSE BILL 1938

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By Representatives Carrell, Cooke, Talcott, Cairnes, Mulliken, Sterk, Huff, L. Thomas, Reams, D. Schmidt, McMorris, Robertson, Hickel, Mitchell, Buck, D. Sommers, B. Thomas, Delvin and Backlund

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1 AN ACT Relating to at-risk youth; amending RCW 4.92.060, 4.92.070,
2 4.92.150, 13.32A.082, 13.32A.197, and 71.34.030; creating new sections;
3 prescribing penalties; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that there is a
6 portion of our youth that continues to expose themselves to the dangers
7 associated with living on the streets. Although recent legislative
8 efforts have made great strides in reunifying families through family
9 reconciliation services and court supervision and guidance, for some
10 families these efforts have not provided long-term resolution to their
11 conflicts. The legislature recognizes that repeated, short-term
12 attempts at reconciliation have sometimes proven unsuccessful or
13 counterproductive for families experiencing the greatest conflicts and
14 options for long-term treatment are needed. To help resolve the
15 conflicts these families face, it is the intent of the legislature to
16 encourage long-term treatment centers to situate in this state. It is
17 also the legislature's intent to ensure that appropriate, affordable
18 treatment is provided to youth who have not responded to reconciliation
19 attempts or remain beyond the reach of current services.

1 **Sec. 2.** RCW 4.92.060 and 1989 c 403 s 2 are each amended to read
2 as follows:

3 Whenever an action or proceeding for damages shall be instituted
4 against any state officer, including state elected officials, employee,
5 volunteer, ~~((or))~~ foster parent licensed in accordance with chapter
6 74.15 RCW, or private vendor operating a secure facility providing
7 treatment under RCW 13.32A.197, arising from acts or omissions while
8 performing, or in good faith purporting to perform, official duties,
9 or, in the case of a foster parent, arising from the good faith
10 provision of foster care services, or in the case of a vendor operating
11 a secure facility, arising from the good faith performance of treatment
12 services for behavioral difficulties or needs, such officer, employee,
13 volunteer, ~~((or))~~ foster parent, or vendor may request the attorney
14 general to authorize the defense of said action or proceeding at the
15 expense of the state.

16 **Sec. 3.** RCW 4.92.070 and 1989 c 403 s 3 are each amended to read
17 as follows:

18 If the attorney general shall find that said officer, employee,
19 foster parent, vendor of a secure facility providing treatment under
20 RCW 13.32A.197, or volunteer's acts or omissions were, or were
21 purported to be in good faith, within the scope of that person's
22 official duties, or, in the case of a foster parent, that the
23 occurrence arose from the good faith provision of foster care services,
24 or, in the case of a vendor operating a secure treatment facility,
25 arising from the good faith performance of treatment for behavioral
26 difficulties and needs, said request shall be granted, in which event
27 the necessary expenses of the defense of said action or proceeding
28 shall be paid from the appropriations made for the support of the
29 department to which such officer, employee, volunteer, or foster parent
30 is attached. In such cases the attorney general shall appear and
31 defend such officer, employee, volunteer, secure treatment facility
32 vendor, or foster parent, who shall assist and cooperate in the defense
33 of such suit. However, the attorney general may not represent or
34 provide private representation for a foster parent or for a secure
35 treatment facility vendor, in an action or proceeding brought by the
36 department of social and health services against that foster parent or
37 secure treatment facility vendor.

1 **Sec. 4.** RCW 4.92.150 and 1989 c 403 s 4 are each amended to read
2 as follows:

3 After commencement of an action in a court of competent
4 jurisdiction upon a claim against the state, or any of its officers,
5 employees, or volunteers arising out of tortious conduct or pursuant to
6 42 U.S.C. Sec. 1981 et seq., or against a foster parent or secure
7 treatment facility vendor that the attorney general is defending
8 pursuant to RCW 4.92.070, or upon petition by the state, the attorney
9 general, with the prior approval of the risk management office and with
10 the approval of the court, following such testimony as the court may
11 require, may compromise and settle the same and stipulate for judgment
12 against the state, the affected officer, employee, volunteer, or foster
13 parent.

14 NEW SECTION. **Sec. 5.** It is the intent of the legislature to
15 protect runaway children from predatory individuals, such as drug
16 dealers, sexual marauders, and panderers. Since it is in the interests
17 of these individuals to keep children who have left home on the street
18 and unlocated, this act punishes predatory individuals who provide
19 shelter to at-risk youth as a means of preying upon them. The
20 legislature also recognizes that preventing at-risk youth from coming
21 into contact with these individuals is equally important to their
22 protection. Since prevention and reconciliation can only begin once a
23 child is located, this act increases the incentives for individuals who
24 have the most contact with runaway children to report the children's
25 whereabouts.

26 **Sec. 6.** RCW 13.32A.082 and 1996 c 133 s 14 are each amended to
27 read as follows:

28 (1) Any person who, without legal authorization, provides shelter
29 to a minor and who knows at the time of providing the shelter that the
30 minor is away from the parent's home, or other lawfully prescribed
31 residence, without the permission of the parent, shall promptly report
32 the location of the child to the parent, the law enforcement agency of
33 the jurisdiction in which the person lives, or the department. The
34 report may be made by telephone or any other reasonable means.

35 (2) Unless the context clearly requires otherwise, the definitions
36 in this subsection apply throughout this section.

1 (a) "Shelter" means the person's home or any structure over which
2 the person has any control.

3 (b) "Promptly report" means to report within eight hours after the
4 person has knowledge that the minor is away from home without parental
5 permission.

6 (3) When the department receives a report under subsection (1) of
7 this section, it shall make a good faith attempt to notify the parent
8 that a report has been received and offer services designed to resolve
9 the conflict and accomplish a reunification of the family.

10 (4) A violation of subsection (1) of this section by a licensed
11 child-serving agency shall be addressed as a licensing violation under
12 chapter 74.15 RCW.

13 (5) A violation of subsection (1) of this section by anyone who is
14 not a licensed child-serving agency is a misdemeanor.

15 **Sec. 7.** RCW 13.32A.197 and 1996 c 133 s 3 are each amended to read
16 as follows:

17 (1) In a disposition hearing, after a finding that a child is a
18 child in need of services or an at-risk youth, the court may adopt the
19 additional orders authorized under this section if it finds that the
20 child involved in those proceedings is not eligible for inpatient
21 treatment for a mental health or substance abuse condition and requires
22 specialized treatment. The court (~~(may)~~) shall order that a child be
23 placed in a (~~(staff)~~) secure facility, other than a crisis residential
24 center, that will provide for the child's participation in a program
25 designed to remedy his or her behavioral difficulties or needs(~~(.—The~~
26 ~~court may not enter this order unless)~~) if the court, at the
27 disposition hearing, (~~(it)~~) finds that the placement is clearly
28 necessary to protect the child and (~~(that a less restrictive order~~
29 ~~would be inadequate to protect the child, given the child's age,~~
30 ~~maturity, propensity to run away from home, past exposure to serious~~
31 ~~risk when the child ran away from home, and possible future exposure to~~
32 ~~serious risk should the child run away from home again))~~) any of the
33 following:

34 (a) That on two or more separate occasions within the twelve-month
35 period before the date of filing the petition, the child's parents
36 filed a runaway report with a law enforcement agency because the child
37 had been absent from the parent's home for longer than three
38 consecutive days; or

1 (b) That the child has been held in contempt under RCW 13.32A.250
2 and the court has reason to believe, based on information provided by
3 the child's parents, family reconciliation service personnel,
4 counselors, crisis residential center administrators, or other
5 responsible adults who have been in contact with the child, that the
6 child will continue to fail to comply with the terms of a court order
7 entered under this chapter or will continue to expose himself or
8 herself to serious risk; or

9 (c) That on two occasions or more the child has been held in
10 contempt under RCW 13.32A.250 for violating a single court order
11 entered under this chapter.

12 (2) The order shall require periodic court review of the placement,
13 with the first review hearing conducted not more than thirty days after
14 the date of the placement. At each review hearing the court shall
15 advise the parents of their rights under RCW 13.32A.160(1), review the
16 progress of the child, and determine whether the orders are still
17 necessary for the protection of the child or a less restrictive
18 placement would be adequate. The court shall modify its orders as it
19 finds necessary to protect the child. Reviews of orders adopted under
20 this section are subject to the review provisions under RCW 13.32A.190
21 and (~~(13.32.198 [13.32A.198])~~) 13.32A.198.

22 (3) Placements in staff secure facilities under this section shall
23 be limited to children who meet the statutory definition of a child in
24 need of services or an at-risk youth as defined in RCW 13.32A.030.

25 (~~(4) ((State funds may only be used to pay for placements under this~~
26 ~~section if, and to the extent that, such funds are appropriated to~~
27 ~~expressly pay for them))~~) (a) The parent, parents, or legal guardian of
28 a child placed under this section are liable for the costs of
29 treatment, care, and maintenance of the child to the extent of
30 available resources, including private insurance coverage, and ability
31 to pay. Within funds appropriated, the state shall pay for costs, if
32 any, not covered by the parent, parents, or legal guardian of the
33 child.

34 (b) The secretary shall establish rules to implement this section
35 and to define income, resources, and exemptions to determine the
36 parent's, parents', or legal guardian's ability to pay.

37 **Sec. 8.** RCW 71.34.030 and 1995 c 312 s 52 are each amended to read
38 as follows:

1 (1)(a) Any minor thirteen years or older may request and receive
2 outpatient treatment without the consent of the minor's parent.
3 Parental authorization is required for outpatient treatment of a minor
4 under the age of thirteen.

5 (b) Any provider of outpatient treatment for a minor thirteen years
6 of age or older shall provide notice of the treatment to the minor's
7 parents. The notice shall be made upon the completion of the child's
8 third visit for treatment, and shall contain the name, location, and
9 telephone number of the mental health care provider who is designated
10 to discuss the minor's need for treatment with the parent.

11 (c) A treatment provider may defer notification to a parent of a
12 minor's request for treatment if:

13 (i) The minor alleges physical or sexual abuse by the parent and
14 the treatment provider notifies the department of the alleged abuse.
15 Upon completion of its assessment of the allegation, the department
16 shall notify the treatment provider of its findings. If the department
17 determines the allegation is not valid, the treatment provider shall
18 immediately notify the parent of the minor's treatment. If the
19 department determines the allegation is valid, the treatment provider
20 need not provide notice to the parent; or

21 (ii) The provider believes the parental notification will interfere
22 with the necessary treatment for the minor. If the provider believes
23 the notification will interfere with the necessary treatment, the
24 provider shall notify the department. The department shall review the
25 circumstances and pursue either a child in need of services petition,
26 if the child meets the definition of a child in need of services under
27 RCW 13.32A.030(4)(c), or a dependency petition under chapter 13.34 RCW,
28 if the child meets the definition of a dependent child under RCW
29 13.34.030(4). If the department determines neither petition is
30 appropriate it shall immediately inform the provider, who shall notify
31 the parent of the treatment within twenty-four hours or after the
32 second visit for treatment, whichever is later.

33 (2) When in the judgment of the professional person in charge of an
34 evaluation and treatment facility there is reason to believe that a
35 minor is in need of inpatient treatment because of a mental disorder,
36 and the facility provides the type of evaluation and treatment needed
37 by the minor, and it is not feasible to treat the minor in any less
38 restrictive setting or the minor's home, the minor may be admitted to

1 an evaluation and treatment facility in accordance with the following
2 requirements:

3 (a) A minor may be voluntarily admitted by application of the
4 parent. The consent of the minor is not required for the minor to be
5 evaluated and admitted as appropriate.

6 (b) A minor thirteen years or older may, with the concurrence of
7 the professional person in charge of an evaluation and treatment
8 facility, admit himself or herself without parental consent to the
9 evaluation and treatment facility, provided that notice is given by the
10 facility to the minor's parent in accordance with the following
11 requirements:

12 (i) Notice of the minor's admission shall be in the form most
13 likely to reach the parent within twenty-four hours of the minor's
14 voluntary admission and shall advise the parent that the minor has been
15 admitted to inpatient treatment; the location and telephone number of
16 the facility providing such treatment; and the name of a professional
17 person on the staff of the facility providing treatment who is
18 designated to discuss the minor's need for inpatient treatment with the
19 parent.

20 (ii) The minor shall be released to the parent at the parent's
21 request for release unless the facility files a petition with the
22 superior court of the county in which treatment is being provided
23 setting forth the basis for the facility's belief that the minor is in
24 need of inpatient treatment and that release would constitute a threat
25 to the minor's health or safety.

26 (iii) The petition shall be signed by the professional person in
27 charge of the facility or that person's designee.

28 (iv) The parent may apply to the court for separate counsel to
29 represent the parent if the parent cannot afford counsel.

30 (v) There shall be a hearing on the petition, which shall be held
31 within three judicial days from the filing of the petition.

32 (vi) The hearing shall be conducted by a judge, court commissioner,
33 or licensed attorney designated by the superior court as a hearing
34 officer for such hearing. The hearing may be held at the treatment
35 facility.

36 (vii) At such hearing, the facility must demonstrate by a
37 preponderance of the evidence presented at the hearing that the minor
38 is in need of inpatient treatment and that release would constitute a
39 threat to the minor's health or safety. The hearing shall not be

1 conducted using the rules of evidence, and the admission or exclusion
2 of evidence sought to be presented shall be within the exercise of
3 sound discretion by the judicial officer conducting the hearing.

4 (c) Written renewal of voluntary consent must be obtained from the
5 applicant no less than once every twelve months.

6 (d) The minor's need for continued inpatient treatments shall be
7 reviewed and documented no less than every one hundred eighty days.

8 (3) A notice of intent to leave shall result in the following:

9 (a) Any minor under the age of thirteen must be discharged
10 immediately upon written request of the parent.

11 (b) Any minor thirteen years or older voluntarily admitted may give
12 notice of intent to leave at any time. The notice need not follow any
13 specific form so long as it is written and the intent of the minor can
14 be discerned.

15 (c) The staff member receiving the notice shall date it
16 immediately, record its existence in the minor's clinical record, and
17 send copies of it to the minor's attorney, if any, the county-
18 designated mental health professional, and the parent.

19 (d) The professional person in charge of the evaluation and
20 treatment facility shall discharge the minor, thirteen years or older,
21 from the facility within twenty-four hours after receipt of the minor's
22 notice of intent to leave, unless the county-designated mental health
23 professional or a parent or legal guardian files a petition or an
24 application for initial detention within the time prescribed by this
25 chapter.

26 (4) The ability of a parent to apply to a certified evaluation and
27 treatment program for the involuntary admission of his or her minor
28 child does not create a right to obtain or benefit from any funds or
29 resources of the state. However, the state may provide services for
30 indigent minors to the extent that funds are available therefor.

31 NEW SECTION. **Sec. 9.** This act may be known and cited as the
32 "Becca Three" bill.

33 NEW SECTION. **Sec. 10.** If any provision of this act or its
34 application to any person or circumstance is held invalid, the
35 remainder of the act or the application of the provision to other
36 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 11.** This act takes effect August 1, 1997.

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